

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 25

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO PROPERTY TAX ADMINISTRATION; AMENDING SECTION 63-215, IDAHO CODE, TO REQUIRE THAT FILES INCLUDE CERTAIN CONTACT INFORMATION; AMENDING SECTION 63-317, IDAHO CODE, TO CONFORM THE EXTENDED DATE FOR THE HOMEOWNER'S EXEMPTION FOR OCCUPANCY TAX TO THAT ALLOWED FOR THE HOMEOWNER'S EXEMPTION FROM PROPERTY TAX; AMENDING SECTION 63-509, IDAHO CODE, TO REVISE REQUIREMENTS TO SHOW INCREMENT VALUES OF REVENUE ALLOCATION AREAS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE FOR APPEALS TO BE MADE TO THE COUNTY BOARD OF EQUALIZATION; AMENDING SECTION 63-706, IDAHO CODE, TO CLARIFY WHEN A CLAIM IS TIMELY IN THE EVENT OF WEEKENDS AND CERTAIN HOLIDAYS; AND AMENDING SECTION 63-810, IDAHO CODE, TO EXTEND THE TIME FOR MAKING CORRECTIONS OF ERRONEOUS PROPERTY TAX LEVIES AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-215, Idaho Code, be, and the same is hereby amended to read as follows:

63-215. LEGAL DESCRIPTION AND MAP OF BOUNDARIES TO BE RECORDED AND FILED. (1) Any taxing district which shall be formed or organized hereafter, or which shall change any existing boundaries hereafter, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such district or municipality as formed or organized, or as altered, to be recorded with the county recorder and filed with the county assessor in the counties within which the unit is located and with the state tax commission within thirty (30) days following the effective date of such formation, organization or alteration but no later than the tenth day of January of the year following such formation, organization or alteration. In the case of fire protection districts, the board of county commissioners approving the boundaries shall be responsible for delivering to the assessor and recorder the map and legal description of the amended district boundaries. Formation, organization or alteration documents that are filed pursuant to this section shall include contact information that is current at the time of filing and that identifies an individual associated with the taxing district.

(2) Urban renewal agencies shall comply with the requirements of subsection (1) of this section when a revenue allocation area within the jurisdiction of the urban renewal agency is formed or when the boundaries of such an area are altered.

(3) The state tax commission shall review filings required by subsections (1) and (2) of this section and if the commission finds that the formation of a district or a change in a district's boundaries fails to provide a proper legal description or fails to correctly identify the boundaries or

1 does not comply with Idaho law relating to boundaries, the state tax commis-
 2 sion may direct that the formation or change not be recognized. The state tax
 3 commission's review shall not include matters relating to notice, open meet-
 4 ing law requirements or compliance with provisions in Idaho law not relating
 5 to boundaries.

6 (4) The county assessor, county auditor and state tax commission shall
 7 retain on file in their respective offices all copies of legal descriptions
 8 of taxing district boundaries and maps filed by the various taxing jurisdic-
 9 tions authorized to impose a levy on property.

10 (5) The state tax commission shall be responsible for providing copies
 11 of uniform tax code area numbers and maps to the county assessor, county au-
 12 ditor and county treasurer and various companies having operating property
 13 subject to assessment in the state of Idaho and under the jurisdiction of the
 14 state tax commission for assessment and taxation purposes.

15 (6) Unless otherwise specifically authorized to form with noncontigu-
 16 ous boundaries, or to annex or de-annex properties so as to make noncontigu-
 17 ous boundaries, all taxing districts shall form with and maintain contiguous
 18 boundaries.

19 SECTION 2. That Section 63-317, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 63-317. OCCUPANCY TAX -- PROCEDURES. (1) All real property subject to
 22 property taxation shall be valued and taxed based upon its status as of Jan-
 23 uary 1 of each tax year. Improvements, other than additions to existing im-
 24 provements, constructed upon real property shall not be subject to property
 25 taxation during the year of construction other than that portion actually in
 26 place as of January 1 of each calendar year; new manufactured housing shall
 27 not be subject to property taxation during the first year of occupancy if oc-
 28 cupied after January 1. For the purposes of this section, "new manufactured
 29 housing" means manufactured housing, whether real or personal, never previ-
 30 ously occupied.

31 (2) There is hereby levied an occupancy tax upon all newly constructed
 32 and occupied residential, commercial and industrial structures, including
 33 new manufactured housing, except additions to existing improvements or man-
 34 ufactured housing, prorated for the portion of the year for which the struc-
 35 ture was occupied. The occupancy tax shall be upon those improvements or new
 36 manufactured housing for that portion of the calendar year in which first oc-
 37 cupancy occurs. The occupancy tax does not apply to operating property. For
 38 the purposes of this section, the term "occupied" means:

39 (a) Use of the property by any person as a residence including occupancy
 40 of improvements or use in storage of vehicles, boats or household goods,
 41 provided such use is not solely related to construction or sale of the
 42 property; or

43 (b) Use of the property for any business or commercial purpose unre-
 44 lated to the construction and sale of the property; or

45 (c) Any possessory use of the property for which the owner received any
 46 compensation or consideration.

47 (3) The owner of any newly constructed improvement or new manufactured
 48 housing, as described in this section, upon which no occupancy tax has been
 49 charged shall report to the county assessor that the improvement or new man-

1 unfactured housing has been occupied. As soon as practical after receiving
 2 such a report, the county assessor shall appraise and determine the market
 3 value for assessment purposes.

4 (a) At the time the county assessor determines the market value for
 5 assessment purposes of any improvement, he shall allow as an offset
 6 against the market value of the improvement, the market value of any
 7 portion of that improvement which was existing on January 1 and placed
 8 upon the property roll.

9 (b) Upon completion of the appraisal, the county assessor shall no-
 10 tify the owner of the appraisal, and further shall notify the owner of
 11 their right to apply for the exemption provided in sections 63-602G and
 12 63-602X, Idaho Code. If the owner applies for and meets the require-
 13 ments for such exemption within thirty (30) days of the notification
 14 by the county assessor, the exemption shall be extended to the newly
 15 constructed and occupied residential structures in compliance with
 16 section 63-602G, Idaho Code, notwithstanding limitations requiring
 17 occupancy as of ~~January 1~~ April 15 of the tax year.

18 (c) In the event that the owner fails to report to the county assessor
 19 that the property is ready for occupancy, the assessor shall notify the
 20 county board of equalization, who may impose as penalty an additional
 21 amount equal to five percent (5%) of the tax for each month following the
 22 date of first occupancy during which the report is not made, to a maximum
 23 of twenty-five percent (25%) of the tax.

24 (4) Appeals of the market value for assessment purposes shall be re-
 25 solved in the same manner as all other appeals of valuation by the board of
 26 equalization.

27 (5) The occupancy tax calculated upon the values set by the county as-
 28 sessor, and any penalty imposed by the board of equalization shall be col-
 29 lected in the same manner as all other property taxes.

30 (6) An occupancy tax lien shall be imposed in the manner provided in
 31 section 63-206, Idaho Code.

32 (7) Occupancy taxes shall be billed, collected and distributed in the
 33 same manner as all other property taxes.

34 SECTION 3. That Section 63-509, Idaho Code, be, and the same is hereby
 35 amended to read as follows:

36 63-509. DELIVERY OF ROLLS TO COUNTY AUDITOR -- ABSTRACTS OF ROLLS. (1)
 37 On or before the second Monday of July the board of equalization must deliver
 38 the property rolls, with all changes, corrections and additions and exemp-
 39 tions from taxation entered therein, to the county auditor. It shall be the
 40 duty of the county auditor to cause to be prepared the roll for delivery to
 41 the county tax collector on or before the first Monday of November. It shall
 42 be the duty of the county auditor to cause to be prepared a total of the amount
 43 and value of each category of property and prepare an abstract of all the
 44 property entered upon the roll in the manner and form required by the state
 45 tax commission. Such forms must show, but need not be limited to, the market
 46 value for assessment purposes of all property by categories, and the exemp-
 47 tions from taxation allowed by categories. Any abstracts needed by and pre-
 48 pared for the state tax commission must be delivered by certified mail to the
 49 state tax commission by the fourth Monday of July. The abstracts will show

1 the increment value as defined in section 50-2903, Idaho Code, in any rev-
 2 enue allocation area established pursuant to chapters 20 and 29, title 50,
 3 Idaho Code, and the value of exemptions ~~will be shown and identified for ex-~~
 4 ~~emptions~~ granted pursuant to chapters 20 and 29, title 50, Idaho Code, for
 5 the value in excess of the equalized assessment valuation as shown on the
 6 base assessment roll in any revenue allocation area, and sections 63-602G,
 7 63-602K, 63-602P, 63-602X, 63-602AA, ~~63-602X~~, 63-602BB and 63-602CC, Idaho
 8 Code, as well as the net taxable value for each of the categories. The ab-
 9 stracts shall be prepared and duly verified and must show a correct classi-
 10 fication of all the property in accordance with the classification of such
 11 property upon the property roll, and all matters and things required to be
 12 shown upon the abstracts must be entered.

13 (2) The subsequent property roll shall be delivered to the county audi-
 14 tor as soon as possible after the first Monday in December. The county au-
 15 ditor shall deliver the subsequent property roll to the county tax collector
 16 without delay.

17 (3) The missed property roll shall be delivered to the county auditor as
 18 soon as possible, but no later than the first Monday in March of the succeed-
 19 ing year. The county auditor shall deliver the missed property roll to the
 20 county tax collector without delay.

21 (4) The county auditor must cause to be prepared abstracts of the com-
 22 bined subsequent and missed property rolls as prescribed in subsection (1)
 23 and submit the abstracts by certified mail to the state tax commission on or
 24 before the first Monday in March of the succeeding year.

25 SECTION 4. That Section 63-602G, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) During the
 28 tax year 2006 and each year thereafter, subject to annual adjustment as pro-
 29 vided herein, the first seventy-five thousand dollars (\$75,000) of the mar-
 30 ket value for assessment purposes of the homestead as that term is defined
 31 in section 63-701, Idaho Code, or fifty percent (50%) of the market value
 32 for assessment purposes of the homestead as that term is defined in section
 33 63-701, Idaho Code, whichever is the lesser, shall be exempt from property
 34 taxation. Beginning for tax year 2007, the state tax commission shall pub-
 35 lish adjustments to the maximum amount subject to property tax exemption to
 36 reflect cost-of-living fluctuations. The adjustments shall effect changes
 37 in the amount subject to tax exemption by a percentage equal as near as prac-
 38 ticable to the annual change in the Idaho housing price index as determined
 39 by the United States office of federal housing enterprise oversight. The
 40 state tax commission shall publish the adjustments required by this subsec-
 41 tion each and every year the office of federal housing enterprise oversight
 42 announces a change in the Idaho housing price index. The adjustments shall
 43 be published no later than October 1 of each year and shall be effective for
 44 claims filed in and for the following property tax year. The publication
 45 of adjustments under this subsection shall be exempt from the provisions of
 46 chapter 52, title 67, Idaho Code, but shall be provided to each county and to
 47 members of the public upon request and without charge.

48 (2) The exemption allowed by this section may be granted only if:

(a) The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The homestead may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in a homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) That the homestead is his primary dwelling place; and

(iii) That he has not made application in any other county for the exemption, and has not made application for the exemption on any other homestead in the county.

(d) For the purpose of this section, the definition of "owner" shall be the same definition set forth in section 63-701(7), Idaho Code.

When an "owner," pursuant to the provisions of section 63-701(7), Idaho Code, is any person who is the beneficiary of a revocable or irrevocable trust, or who is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, he or she may provide proof of the trust, limited partnership, limited liability company, or corporation in the manner set forth in section 63-703(4), Idaho Code.

(e) Any owner may request in writing the return of all copies of any documents submitted with the affidavit set forth in section 63-703(4), Idaho Code, that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit in proper form.

(f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code.

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2) (c) of this section.

(b) The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same homestead for which the owner made application.

1 (c) The homestead described in subsection (3)(b) of this section is
2 owner-occupied or occupied by a beneficiary, partner, member or share-
3 holder, as appropriate, and used as the primary dwelling place of the
4 owner or beneficiary, partner, member or shareholder, as appropriate,
5 as of January 1; provided however, that in the event the homestead is
6 owner-occupied after January 1, but before April 15, the owner of the
7 property is entitled to the exemption.

8 (4) The exemption allowed by this section must be taken before the re-
9 duction in taxes provided by sections 63-701 through 63-710, Idaho Code, is
10 applied.

11 (5) Recovery of property tax exemptions allowed by this section but im-
12 properly claimed or approved:

13 (a) Upon discovery of evidence, facts or circumstances indicating any
14 exemption allowed by this section was improperly claimed or approved,
15 the county assessor shall decide whether the exemption claimed should
16 have been allowed and if not, notify the taxpayer in writing, assess
17 a recovery of property tax and notify the county treasurer of this
18 assessment. If the county assessor determined that an exemption was
19 improperly approved as a result of county error, the county assessor
20 shall present the discovered evidence, facts or circumstances from the
21 improperly approved exemption to the board of county commissioners, at
22 which time the board may waive a recovery of the property tax and notify
23 such taxpayer in writing.

24 (b) When information indicating that an improper claim for the exemp-
25 tion allowed by this section is discovered by the state tax commission,
26 the state tax commission may disclose this information to the ap-
27 propriate county assessor, board of county commissioners and county
28 treasurer. Information disclosed to county officials by the state tax
29 commission under this subsection may be used to decide the validity of
30 any entitlement to the exemption provided in this section and is not
31 otherwise subject to public disclosure pursuant to chapter 3, title 9,
32 Idaho Code.

33 (c) The assessment and collection of the recovery of property tax must
34 begin within the seven (7) year period beginning the date the assessment
35 notice reflecting the improperly claimed or approved exemption was re-
36 quired to be mailed to the taxpayer.

37 (d) The taxpayer may appeal to the county board of ~~county commissioners~~
38 equalization the decision by the county assessor to assess the recovery
39 of property tax within thirty (30) days of the date the county assessor
40 sent the notice to the taxpayer pursuant to this section. The board may
41 waive the collection of all or part of any costs, late charges and inter-
42 est, in order to facilitate the collection of the recovery of the prop-
43 erty tax.

44 (e) For purposes of calculating the tax, the amount of the recovered
45 property tax shall be for each year the exemption allowed by this sec-
46 tion was improperly claimed or approved, up to a maximum of seven (7)
47 years. The amount of the recovery of property tax shall be calculated
48 using the product of the amount of exempted value for each year multi-
49 plied by the levy for that year plus costs, late charges and interest for

1 each year at the rates equal to those provided for delinquent property
2 taxes during that year.

3 (f) Any recovery of property tax shall be due and payable no later than
4 the date provided for property taxes in section 63-903, Idaho Code, and
5 if not timely paid, late charges and interest, beginning the first day
6 of January in the year following the year the county assessor sent the
7 notice to the taxpayer pursuant to this section, shall be calculated at
8 the current rate provided for property taxes.

9 (g) Recovered property taxes shall be billed, collected and dis-
10 tributed in the same manner as property taxes, except each taxing dis-
11 trict or unit shall be notified of the amount of any recovered property
12 taxes included in any distribution.

13 (h) Thirty (30) days after the taxpayer is notified, as provided in
14 subsection (5) (a) of this section, the assessor shall record a notice
15 of intent to attach a lien. Upon the payment in full of such recovered
16 property taxes prior to the attachment of the lien as provided in sub-
17 section (5) (i) of this section, or upon the successful appeal by the
18 taxpayer, the county assessor shall record a rescission of the intent to
19 attach a lien within seven (7) business days of receiving such payment
20 or within seven (7) business days of the county ~~commissioners'~~ board of
21 equalization decision granting the appeal. If the real property is sold
22 to a bona fide purchaser for value, prior to the recording of the notice
23 of the intent to attach a lien, the county assessor and treasurer shall
24 cease the recovery of such unpaid recovered property tax.

25 (i) Any unpaid recovered property taxes shall become a lien upon the
26 real property in the same manner as provided for property taxes in sec-
27 tion 63-206, Idaho Code, except such lien shall attach as of the first
28 day of January in the year following the year the county assessor sent
29 the notice to the taxpayer pursuant to this section.

30 (j) For purposes of the limitation provided by section 63-802, Idaho
31 Code, moneys received pursuant to this subsection as recovery of prop-
32 erty tax shall be treated as property tax revenue.

33 (6) The legislature declares that this exemption is necessary and just.

34 (7) A homestead, having previously qualified for exemption under this
35 section in the preceding year, shall not lose such qualification due to: the
36 owner's, beneficiary's, partner's, member's or shareholder's absence in
37 the current year by reason of active military service in a designated combat
38 zone, as defined in section 112 of the Internal Revenue Code, or because the
39 homestead has been leased because the owner, beneficiary, partner, member or
40 shareholder is absent in the current year by reason of active military ser-
41 vice in a designated combat zone, as defined in section 112 of the Internal
42 Revenue Code. If an owner fails to timely apply for exemption as required
43 in this section solely by reason of active duty in a designated combat zone
44 by the owner, beneficiary, partner, member or shareholder, as appropriate,
45 as defined in section 112 of the Internal Revenue Code, and such homestead
46 would have otherwise qualified under this section, then the board of county
47 commissioners of the county in which the homestead is located shall refund
48 property taxes, if previously paid, in an amount equal to the exemption which
49 would otherwise have applied.

(8) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's, beneficiary's, partner's, member's or shareholder's death during the year of the owner's, beneficiary's, partner's, member's or shareholder's death and the tax year immediately following such death provided that the homestead continues to be a part of the owner's, beneficiary's, partner's, member's or shareholder's estate. After such time the new owner shall reapply to receive the exemption pursuant to this section and shall meet the qualification criteria contained in this section.

SECTION 5. That Section 63-706, Idaho Code, be, and the same is hereby amended to read as follows:

63-706. TIME REQUIREMENTS FOR FILING CLAIM. Any claim for property tax reduction to be granted under the provisions of sections 63-701 through 63-710, Idaho Code, shall be filed in the office of the county assessor between January 1 and April 15 of each year. If April 15 is a weekend or a certain holiday recognized by the internal revenue service, such claims shall be considered timely filed if filed on the next business day.

SECTION 6. That Section 63-810, Idaho Code, be, and the same is hereby amended to read as follows:

63-810. ERRONEOUS LEVY -- CORRECTIVE ACTION. (1) Whenever the county commissioners have discovered that a levy has been made by unintentional clerical, mathematical or electronic error, in any levy certified by such board, the county commissioners on ~~its~~ their own motion may:

(a) If discovered prior to the fourth Monday of November of the year for which the levy is certified, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits.

(b) If discovered after the fourth Monday of November of the year for which the levy is certified, but before ~~January 30~~ February 15 of the succeeding year, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits. The corrected levy shall be applied to the taxable value within each taxing district and the property taxes so applied shall be a perpetual lien on the property, and such property tax levy and tax charge shall supersede all previous incorrect levies and charges made for that year, except that the property tax computed using the corrected levy shall allow a credit for the amount of property taxes previously paid. If additional property tax is owed due to the corrected levy, the county tax collector shall, prior to the fourth Monday in May, mail to the last record owner of any property affected by such erroneous levy a notice of tax correction. The deadline for paying such property tax shall be no later than June 20 of that year. Late charges and interest will be added if full property tax is not paid by June 20 and interest will be calculated from January 1 as provided in section 63-1001, Idaho Code.

(c) Provided the levy correction is made after the fourth Monday of November or after tax notices have been mailed, the levy correction shall be considered at a hearing held by the county commissioners at

1 which time any taxpayer may appear and be heard upon the issue. Notice
2 of the date, time, place and purpose of such hearing shall be published
3 in a newspaper published in the county, or if there is none, then in a
4 newspaper of general circulation in the county. The notice shall be run
5 once each week for the two (2) weeks preceding the hearing. The hearing
6 shall be held not less than seven (7) days after the first notice is pub-
7 lished.

8 (2) The county commissioners shall submit the corrected levy and a copy
9 of the order to the state tax commission. The state tax commission shall re-
10 view the corrected levy and take action as required in section 63-809, Idaho
11 Code.

12 (3) For the purposes of sections 63-701 through 63-710, Idaho Code, and
13 for the purposes of the distributions required in section 63-3638, Idaho
14 Code, the state tax commission, county auditor, and the county commissioners
15 shall use the corrected values and numbers allowed in this section to recom-
16 pute and correct such distributions by adjusting future distributions to
17 account for any difference. For the purposes of chapters 8 and 10, title 33,
18 Idaho Code, the state department of education shall use the corrected values
19 and numbers allowed in this section.